

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W. SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF

Marie Drissel

(former) Director

Office of Boards and Commissions

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DATE: October 29, 2002

DOCKET NO.: CF 2002-08

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) pursuant to a referral from the Office of the Inspector General for the District of Columbia (hereinafter OIG) in a published report entitled "Report of Investigation of the Fundraising Activities of the Executive Office of the Mayor (EOM)" (hereinafter Report) (OIG Control Number 2001-0188 (S)). In the Report, the OIG has alleged that certain current and former employees engaged in behavior that violated provisions of the District of Columbia Personnel Manual Standards Of Conduct.

In the instant case, the Inspector General has alleged that Marie Drissel (hereinafter respondent) engaged in private or personal business activity on government time and with the use of government resources on behalf of the private, non-profit Millennium Washington Capital Bicentennial Corporation (hereinafter MWCBC) in violation of §§1803.1(f), 1804.1(b) and (d), 1805.2 and 1806.1 of the District Personnel Manual (hereinafter DPM).¹

¹ DPM §1803.1(f) reads as follows:

An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in, or create the appearance of the following:

...

(f) Affecting adversely the confidence of the public in the integrity of government[.]

DPM §1804.1 reads, in part, as follows:

An employee may not engage in any outside employment or other activity, which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not

Upon OCF's evaluation of the material amassed in this inquiry, it was decided that the parameters of this inquiry extended solely to the DPM employee conduct regulations.

There was not any credible evidence that the respondent committed any violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), as amended, D.C. Official Code §§1-1101.01 et seq. (2001 Edition). Any alleged violation of the Act by the respondent would be predicated upon the premises that respondent realized personal gain through official conduct, engaged in any activity subject to the reporting requirements and contribution limitations of the Act, or used District government resources for campaign related activities.² See D.C. Official Code §1-1106.01.

Additionally, fines may be assessed for any violation of the Act. OCF's review did not reveal any such activity.

Accordingly, where a violation of the DPM employee conduct regulations has occurred, OCF is limited with respect to any action which otherwise may be ordered. Inasmuch as the DPM consists of personnel regulations, fines cannot be assessed. The Director may only recommend disciplinary action to the person responsible for enforcing the provisions of the employee conduct rules against the respondent.

By letter dated June 7, 2002, OCF requested the respondent to appear at a scheduled

compatible with government employment include but are not limited to, the following:

...

(b) Using government resources for other than official business [and]

(d) Maintaining financial or economic interest in or serving (with or without compensation) as an officer or director of an outside entity if there is any likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee[.]

DPM §1805.2 reads as follows:

No District employee... may acquire an interest in or operate any business or commercial enterprise, which is in any way related, directly or indirectly, to the employee's official duties, or which might otherwise be involved in an official action taken or recommended by the employee, or which is in any way related to matters over which the employee could wield any influence, official, or otherwise.

DPM §1806.1 reads:

A District employee shall not use or permit the use of government property, equipment or material of any kind... for other than officially approved purposes.

² D.C. Law 14-36, "Campaign Finance Amendment Act of 2001," effective October 13, 2001, prohibits the use of District government resources for campaign related activities.

hearing on June 14, 2002. The purpose of the hearing was to show cause why the respondent should not be found in violation of the Standards of Conduct, which the respondent was alleged to have violated in the Report. On June 14, 2002, by letter, the respondent requested an extension for said hearing date, which was approved, and the hearing was rescheduled for July 23, 2002.

Summary of Evidence

The OIG has alleged that the respondent violated the above referenced provisions of the DPM as a result of her role as a director of MWCBC, which was a private, non-profit, tax exempt corporation that was used to generate funds for non-government activity. Consequently, the OIG has alleged that the respondent engaged in activity which was not compatible with the full and proper discharge of her responsibilities as a government employee and that her activity created the appearance of impropriety. The OIG relies exclusively upon its Report, which is incorporated herein in its entirety.

On July 23, 2002 the respondent appeared, with counsel, Nathalie O. Ludaway, Esq., before OCF at a scheduled hearing, conducted by William O. SanFord, Esq., Senior Staff Attorney. Wesley Williams, OCF Investigator, was also present.

Synopsis of Proceedings

The respondent is the former Director of the Office of Boards and Commissions. She was employed with the Government of the District of Columbia from January 1999 until January 2000 in that position pursuant to an appointment by Mayor Anthony Williams. She is currently employed in private industry.

During examination by Mr. SanFord, the respondent testified that she and her counsel had read and understood the allegations against her in the Report. The respondent was asked whether she was familiar with the MWCBC and to explain her relationship to and or her involvement in MWCBC.

The respondent conceded that she and Henry "Sandy" McCall (hereinafter McCall) served as incorporators of the entity in the fall of 1999 while they were employed by the government of the District of Columbia. However, the respondent stated that she never attended a meeting or engaged in any fundraising on behalf of MWCBC subsequent to signing the articles of incorporation. She testified that she was a co-signor on an MWCBC account and co-signed 57 checks on that account. She further stated that she orally informed McCall that she was resigning from MWCBC in January 2000.

According to the respondent, she became an incorporator of the MWCBC pursuant to a request from McCall. Respondent further stated that she did not have any knowledge that her limited activity with MWCBC was inappropriate until she was advised of the allegations against her in the Report. Respondent denied any involvement in MWCBC

beyond signing the articles of incorporation and signing checks which required a second signature.

The respondent testified that she never held any interest -- financial or otherwise -- in the MWCBC; that she never discussed or transacted business on behalf of the corporation; that she never performed any duties or spoke with any one on behalf of the corporation; that she never attended a meeting or solicited funds on behalf of the corporation; and that she never believed or understood that her role with the MWCB at anytime interfered with, or was inconsistent with her role as a government official. Respondent stated that she discontinued her involvement in MWCBC shortly before she resigned from the District of Columbia government on January 19, 2000.

Findings of Fact

Having reviewed the allegations and the record herein:

1. Respondent, Marie Drissel, as Director of the Office of Boards and Commissions, from January 1999 through January 2000, was a public official required to file a Financial Disclosure Statement (FDS) with OCF.
2. MWCBC was incorporated in October 1999 under the auspices of McCall, then EOM Deputy Chief of Staff for External Affairs, as a private, non-profit corporation to solicit donations for the 2000 millennium celebration in the District of Columbia. Report at 50-51.
3. From November 1999 through the middle of January 2000, MWCBC operated out of the EOM office located at 1 Judiciary Square, 441 4th Street, N.W., Washington, D.C. Report at 50-51 & 59.
4. From the middle of January through July 2000, MWCBC operated out of 1730 K Street, N.W., and was still supported by D.C. government funds and resources. Report at 59, 62 & 65.
5. From July through November 2000, MWCBC operated, once again, out of the EOM office located at 1 Judiciary Square, 441 4th Street, N.W., Washington, D.C. Report at 65 & 67.
6. There were two (2) MWCBC accounts. Report at Exhibit 1.
7. Throughout and during her tenure as Director of the Office of Boards and Commissions, the respondent performed daily tasks involving MWCBC activities.
8. Respondent was an incorporator of MWCBC and, contrary to her testimony, wrote

65 checks on one of the MWCBC accounts. Report at Exhibit 1.

9. The respondent nevertheless believed that that it was not inappropriate to perform tasks and sign checks with regard to MWCBC.
10. There is not any evidence to suggest that the respondent was authorized by the Office of the Chief Financial Officer or the D.C. Treasurer or their designees to oversee financial accounts and sign checks inuring to the benefit of the District of Columbia.
11. The respondent finally believed that her MWCBC related activities did not interfere and were not inconsistent with her role as a government employee.

Conclusions of Law

1. Respondent is an employee of the District of Columbia government and is subject to the enforcement provisions of the employee conduct regulations at DPM §§1800 et seq.
2. From November 1999 through November 2000, MWCBC, notwithstanding that it was a private, non-profit corporation, was supported by D.C. government employees, funds and resources; and, the respondent believed that MWCBC business was government business.
3. Respondent used District of Columbia government time and resources to co-incorporate MWCBC and to perform tasks with regard to an MWCBC account from the fall of 1999 through January 2000; and, notwithstanding the fact that respondent believed that MWCBC business was government business, it is more likely than not that the respondent was well aware her actions violated the employee conduct regulations because respondent signed at least 65 checks over an MWCBC account.
4. Checks issued for District of Columbia government business emanate from District of Columbia government accounts managed and processed by the Office of the Chief Financial Officer (CFO) through the D.C. Treasury. See D.C. Official Code §§1-204.24a et seq. (2001 Edition).
5. Respondent's management of an MWCBC account over which she signed at least 65 checks; and, notwithstanding that the purpose and proceeds thereof ostensibly inured to the District of Columbia government, was private, corporate business.
6. Respondent's management of an MWCBC account over which she signed at least 65 checks; and, notwithstanding that the purpose and proceeds thereof ostensibly inured to the District of Columbia government, was not government business.

7. The responsibility for enforcing the provisions of the employee conduct rules against the respondent would have rested with the Mayor of the District of Columbia (hereinafter Mayor).

Recommendation

Had Marie Drissel remained an employee, it would have been my recommendation that the Director advise the Mayor of the District of Columbia to take disciplinary action against Marie Drissel based upon her violations of the Standards of Conduct to include a change in her assigned duties, corrective or adverse action, her disqualification for a particular assignment, pursuant to DPM §1801.2, or her removal from District government.

Prior to the issuance of the Report, the Mayor appointed an Ethics Counselor and scheduled meetings and workshops to inform and clarify each staff member of the provisions and prohibitions of the Standards of Conduct.

Because Marie Drissel is no longer a District government employee, and, because the Mayor of the District of Columbia has taken steps to definitively and thoroughly inform each staff member as to provisions and prohibitions of the Standards of Conduct, I hereby recommend that the Director advise the Mayor to be always cognizant of this responsibility.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

Where a violation of the Standards of Conduct has occurred, disciplinary action may be taken to include changes in assigned duties, divestment of any conflicting interest, corrective or adverse action, disqualification for a particular assignment, or removal from District government.

The circumstances surrounding the instant misconduct involve an employee who believed that her conduct was within the parameters of her job description. But Marie Drissel is no longer a District government employee, and, the Mayor has taken appropriate measures, by appointing an Ethics Counselor and conducting extensive workshops, to apprise and re-apprise his staff of the provisions and prohibitions of the Standards of Conduct. Thus, the Mayor has taken appropriate measures to ensure the integrity of government. I advise the Mayor to remain ever vigilant in this regard.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

Date

Cecily E. Collier-Montgomery
Director

Parties Served:

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SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing order.

S. Wesley Williams
Investigator

NOTICE

Pursuant to 3 DCMR § 3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, NW, Washington, D.C. 20009.